

EXHIBIT 1

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10
11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF ARIZONA**

13 Manuel de Jesus Ortega Melendres, et al.,,

14 Plaintiff,

15 v.

16 Joseph M. Arpaio, et al.,,

17 Defendant.

NO. CV 07-02513-PHX-GMS

**Affidavit of Maricopa County
Sheriff Joseph M. Arpaio in Support
of Motion for Recusal or
Disqualification of District Court
Judge G. Murray Snow**

18
19 STATE OF ARIZONA)

20) ss.

21 County of Maricopa)
22

23
24 Maricopa County Sheriff Joseph M. Arpaio being first duly sworn, deposes
and states as follows:

25 1. I am over the age of 18 years, am competent to testify to the matter
26 set forth in this affidavit, and make this affidavit from my own personal knowledge.

27 2. I am the duly elected constitutionally and statutorily empowered
28

1 Sheriff of Maricopa County. As Maricopa County Sheriff, I run and am the highest
2 ranking official in the Maricopa County Sheriff's Office ("MCSO"). I have knowledge of
3 all aspects of MCSO, including but not limited to jail and law enforcement divisions of
4 MCSO and their operations.

5 3. I have been the duly elected Sheriff for over twenty two years. I have
6 held various positions and ranks in law enforcement agencies, including Federal agencies,
7 for an additional thirty two years exclusive of my tenure as Maricopa County Sheriff.

8 4. This affidavit is to support the Motion for Recusal or Disqualification
9 of District Court Judge G. Murray Snow which is filed simultaneously with this Affidavit
10 pursuant to 28 U.S.C. §144.

11 5. I truly appreciate the seriousness of moving for the recusal or
12 disqualification of any sitting Judge. Nevertheless, realizing what is at stake in this
13 proceeding, including potential criminal contempt, I am left with no other choice but to
14 file this Motion and Affidavit to protect myself and my constitutional rights, and to ensure
15 that I and others in this proceeding are afforded due process of law.

16 6. As set forth in the Motion filed by my counsel, under statute, case
17 law and judicial canons, judicial bias and the appearance of impropriety, punctuated by
18 the material witness status of Judge Snow's spouse, Sheri Snow, and perhaps Judge Snow
19 mandate the recusal and disqualification of Judge Snow. Facts and reasons exist to
20 demonstrate that bias and prejudice mandate the recusal or disqualification of Judge Snow
21 from this case. Those facts and reasons are set forth in detail in the Motion filed on my
22 behalf.

23 7. By Judge Snow's own official inquiry, statements and questions in
24 open Court on the record, Judge Snow inquired into investigations during a contempt
25 proceeding. His inquiry thrust Judge Snow's wife, Sheri Snow, into the limelight of these
26 proceedings as a material witness due to statements that she made regarding her husband,
27 Judge Snow, and specifically his alleged hatred for me and his willingness to do anything
28 to remove me from office. Even though Judge Snow knows that this statement was made,

1 as verified by three individuals, Judge Snow is now unethically investigating issues
2 regarding his wife's statements attributed to him with the use of his Court appointed
3 Monitor in this case, Robert Warshaw, who has a twelve member monitor team at his
4 disposal. While this alone is sufficient to mandate recusal and disqualification, the fact
5 that Judge Snow's wife is now a material witness, creates not the only appearance of bias,
6 prejudice and impropriety that requires Judge Snow to recuse himself from this action, but
7 also requires another Judge decide whether to disqualify Judge Snow from presiding over
8 this case.

9 8. Judge Snow himself has recognized that the documents involved in
10 the Montgomery investigation "appear to allege or suggest that this Court had contact
11 with the Department of Justice about this case before the Court was ever assigned to it."
12 [5/14/15 Transcript at 45:17-19]. Moreover, Judge Snow stated on the record that the
13 Montgomery Investigation appears to allege that the random selection process of this
14 Court was subverted so that the case was deliberately assigned to him and that he had
15 conversations with Eric Holder and Lanny Breuer about this case. [*Id.* at 45:19-25].
16 Judge Snow, therefore, has an interest that could be substantially affected by the outcome
17 of the proceeding because his reputation is squarely at stake.

18 9. I believe that Judge Snow should recuse himself for the reasons set
19 forth in the Motion, if not merely for the material witness status of his wife, and perhaps
20 the Judge himself. However, there are other facts and reasons that exist that mandate the
21 recusal and disqualification of Judge Snow from this case, in addition to his wife's
22 material witness status, an unwaivable conflict in the eyes of the law that requires Judge
23 Snow to remove himself from this case and further related proceedings concerning me and
24 MCSO.

25 10. Aside from the unavoidable and unwaivable material witness status
26 of Judge Snow's spouse, Sheri Snow, and perhaps Judge Snow, other reasons and facts
27 exist to demonstrate that Judge Snow is biased and prejudiced towards me, and that more
28 than an appearance of impropriety regarding Judge Snow's handling of this case exists.

1 Although all of the facts and reasons that require recusal and disqualification of Judge
2 Snow are set forth in the motion, I highlight them in this affidavit.

3 11. Seventeen months after Judge Snow's entering of a Preliminary
4 Injunction in this matter, approximately nine months following a bench trial, and one
5 week before the deadline to file a Recall Petition against me, Judge Snow issued his
6 Findings of Fact and Conclusions of Law in May 2013. The delay in issuing his Findings
7 was curious. The timing of the issuance of his Findings, however, was problematic, as it
8 fell approximately one week before the Recall Petition deadline, and resulted in
9 immediate marches and protests against me at a crucial point in my career as Sheriff.

10 12. At one point during this litigation, Judge Snow determined that civil
11 contempt proceedings would occur in this case to determine if I and certain other MCSO
12 personnel were in contempt of Judge Snow's Orders and discovery obligations in this
13 case.

14 13. On March 17, 2015 an Expedited Motion to Vacate Hearing and
15 Request for Entry of Judgment was filed on my behalf. The purpose of that Motion was
16 to convey to the Court and to Plaintiffs that I, MCSO and identified non-party Chief
17 Deputy Gerard Sheridan consented to a finding of civil contempt against us and the
18 imposition of remedies designed to address our conduct. We expressed our sincere
19 remorse to the Court and to Plaintiffs and explicitly acknowledged that we had negligently
20 violated the Court's Preliminary Injunction. We adopted and stipulated to the facts as
21 stated in the Court's Order to Show Cause, as well as to the entry of an Order finding us in
22 civil contempt.

23 14. Nevertheless, Judge Snow demanded that I have "skin in the game"
24 and, specifically, that I pay a sanction from my personal funds and not from any fund
25 created to assist me in my legal defense. We provided a proposed list of stipulated
26 remedial measures that Defendants had agreed to implement, including a payment of
27 \$100,000 from my personal funds to a civil rights organization. In light of these remedial
28 measures, we requested that Judge Snow vacate the evidentiary hearing to determine the

1 existence of the admitted contempt.

2 15. Despite the admitted inadvertent violation of the Court's Preliminary
3 Injunction and the remedial measures to which we agreed, including agreeing to
4 Plaintiffs' settlement terms that would have mooted the need for contempt proceedings,
5 Judge Snow refused to discontinue the contempt proceedings. Instead, he requested that
6 the United States Attorney for the District of Arizona attend the proceedings to determine
7 whether sufficient evidence would be present to justify criminal contempt proceedings. In
8 essence, Judge Snow requested that the U.S. Attorney function as his investigator to
9 determine whether criminal contempt of his Preliminary Injunction had occurred. The
10 U.S. Attorney appropriately denied Judge Snow's invitation to participate in this capacity
11 by letter and subsequently in open Court.

12 16. During the unnecessary contempt proceedings, Judge Snow
13 embarked on his own inquiries during his examination of me which was entirely unrelated
14 to the three grounds that were the defined subjects of the contempt proceeding: (1) failing
15 to implement and comply with the Preliminary Injunction; (2) violating [] discovery
16 obligations; and (3) acting in derogation of Judge Snow's May 14, 2014 Orders.

17 17. Judge Snow continued his inquiries during his examination of Chief
18 Deputy Gerard Sheridan following my testimony. Judge Snow's questioning of me and
19 Chief Deputy Sheridan was based on Judge Snow's reading of, reference to, and reliance
20 on hearsay statements contained in a Phoenix New Times blog posted by Stephen
21 Lemons. The investigations into which Judge Snow inquired had no relevance to the
22 contempt proceedings (i.e. the "Grissom investigation" and the "Montgomery
23 investigation" defined and explained in Section II D. of the Motion.)

24 18. During Judge Snow's surprise examination regarding the Grissom
25 investigation, it appeared that Judge Snow believed that we had investigated him and his
26 wife. Despite the fact that testimony revealed that no such investigations had occurred,
27 Judge Snow persisted in his examination. What was clearly understood by the testimony
28 that Judge Snow elicited during the surprise examination of me and Chief Deputy

1 Sheridan, MCSO had not investigated Judge Snow's wife or any member of his family.
2 Rather an investigator hired by my former counsel interviewed individuals to whom the
3 Judge's spouse, Sheri Snow, made statements to the effect that Judge Snow hates me and
4 would do anything to get me out of office. The interviews that the private investigator
5 conducted of the individuals who heard Judge Snow's spouse, Sheri Snow, make the
6 serious statements verified that Judge Snow's wife had, in fact, made these statements.
7 Nevertheless, testimony that Judge Snow elicited demonstrated that MCSO decided to go
8 no further than just to verify that Mrs. Snow had made such statements. Nevertheless,
9 Judge Snow is continuing to inquire into the Grissom investigation by using his Monitor,
10 Robert Warshaw, and the Monitor's twelve member team, to conduct an investigation on
11 Judge Snow's behalf.

12 19. During the recent contempt proceedings, Judge Snow also conducted
13 surprise examinations of me and Chief Deputy Sheridan regarding a second investigation
14 also unrelated to the three clearly defined subjects of the contempt proceedings. In doing
15 so, Judge Snow inquired regarding MCSO's use of a confidential informant, Dennis
16 Montgomery, involving email breaches, including the emails of certain attorneys who
17 represented me, wiretaps of me and Judges, and computer hacking of approximately
18 50,000 bank accounts of Maricopa County citizens. Like the Grissom investigation, this
19 "Montgomery investigation" did not involve any investigation of Judge Snow or his
20 family. Nevertheless, Judge Snow has expanded the powers of the Monitor to further
21 inquire into the "Montgomery investigation" regardless of relevance to the contempt
22 proceedings and this action as a whole.

23 20. Judge Snow as a sole arbiter of the matters relevant to the contempt
24 proceedings, and this case as a whole, has utilized the Monitor to expand his investigation
25 into these unrelated issues. To justify this expansion of power, and after the Court
26 received a separate motion by an attempted intervenor seeking the recusal or
27 disqualification of Judge Snow, Judge Snow tried earnestly to create a connection
28 between the Grissom and Montgomery investigations and a speculative pattern of

1 “knowing defiance” rather than “inadvertence” of Judge Snow’s Orders and necessary
2 remedies for members of the Plaintiffs’ class. Again, civil contempt due to inadvertence
3 or negligence had already been admitted. No known defiance or intentional contempt of
4 Judge Snow’s Orders ever occurred. Nevertheless, Judge Snow granted the Monitor
5 “broad leeway” in determining what matters are pertinent to the current contempt
6 proceedings, despite the clear irrelevance and the testimony that Judge Snow elicited
7 during his surprise examinations.

8 21. What’s more, when my counsel requested clarification regarding the
9 Monitor’s investigatory powers, Judge Snow refused her request. In doing so, he stated
10 that he was not going to limit the Monitor’s authority or unduly shackle the Monitor.
11 Thus, the Monitor now has unlimited investigatory powers into issues completely
12 unrelated to the contempt proceedings that will continue despite admissions of civil
13 contempt.

14 22. In addition, the 9th Circuit Court of Appeals has recently ordered that
15 Judge Snow had improperly expanded the authority and investigatory powers of the
16 Monitor in this case. However, despite the 9th Circuit’s recent Order, Judge Snow has,
17 once again, improperly expanded the authority and investigatory powers of the Monitor
18 into matters completely immaterial and irrelevant to the contempt proceedings and issues,
19 as framed by Judge Snow’s Order to Show Cause (e.g., the Grissom and Montgomery
20 investigations, and most recently, MCSO’s investigation into the authenticity of President
21 Obama’s birth certificate).

22 23. Furthermore, a person within the third degree of relationship to Judge
23 Snow is affiliated with Plaintiffs’ counsel. Judge Snow’s brother in-law is an attorney
24 with Covington Burling, counsel for Plaintiffs in this action. Early in this action, my
25 former counsel waived this conflict. However, in light of recent events, reconsideration of
26 this previously waived conflict is necessary.

27
28 24. In light of the statements that Judge Snow’s wife, Sheri Snow made,

1 Judge Snow's statement regarding his alleged hatred for me and his desire to see me
2 removed from Office, the reputations of Judge Snow and his wife are at stake in this
3 proceeding. Thus, the Judge has an interest that could be substantially affected by the
4 outcome of the proceeding.

5 25. The fact that Judge Snow believes that the Grissom investigation is
6 relevant to the contempt proceeding establishes his spouse as a material witness.
7 Undoubtedly, Mrs. Snow is now a material witness in this proceeding because of Judge
8 Snow's injection of her and her statements into the contempt proceedings. Certainly, at
9 issue is whether she made the statement, what she meant by the statement and her
10 conversations that she may have had with her husband, Judge Snow, and any statements
11 that Judge Snow may have made about me, his feelings for me and his alleged desire to
12 see me removed from the Office of Maricopa County Sheriff. I realize and appreciate the
13 gravity of this situation, but even if there is a denial that Mrs. Snow made the statements
14 at issue, although there has been none to date, the conflict that is now created is
15 unwaivable and the integrity of this proceeding and my constitutional right to due process
16 of law is in jeopardy. And Judge Snow is solely responsible for making his spouse, and
17 perhaps himself, a material witness to this proceeding by injecting irrelevant matters into
18 this proceeding.

19 26. The Judge has made comments that indicate that he has a personal
20 bias or prejudice against me.

21 27. As Judge Snow revealed during the contempt proceedings, he has
22 engaged in outside investigation with regard to matters that he thought to be relevant and
23 that he infused into the proceeding.

24 28. What's more, he apparently took evidence outside of Court, although
25 he did not disclose the identity of the individual with whom he spoke regarding this
26 matter. However, he clearly stated that he engaged in an investigation outside the Court
27 room during a lunch break.

28 29. Judge Snow also asked leading questions on irrelevant matters during

